IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

THURSDAY, THE 29TH NOVEMBER 2007 / 8TH AGRAHAYANA 1929

WP(C).No. 12848 of 2004(D)

AGAINST THE ORDER IN EP.NO.3/2003 IN OS.11/1998 of SUB COURT,KATTAPPANA

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PETITIONERS:
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1. **M.KUMAR S/O. MAHALINGAM,**
   OPP.NOVA VETERINARY HOSPITAL,
   V.O.C.NAGAR, NORTH STREET, BODINAIKANOOR 625 513.

2. **M.MURUGA NATHAN, S/O. MAHALINGAM,**
   OPP.NOVA VETERINARY HOSPITAL, V.O.C.NAGAR,
   NORTH STREET, BODINAIKANOOR-625 513.

BY ADV. SRI.PHILIP T.VARGHESE
SRI.THOMAS T.VARGHESE

RESPONDENT:

S.P.JAYAKUMAR S/O. PALANI SWAMI GOWDER,
24 NETHAJI ROAD, N.R.T. NAGAR, THENI, TAMIL NADU.

BY

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 29/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

KSS

WPC.NO.12848/2004 D

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: **COPY OF E.A.NO.62/2003 IN E.P.NO.3/2003 IN O.S.NO.11/1998 FILED BY THE DECREE HOLDER BEFORE THE SUB COURT, KATTAPPANA.**

EXT.P2: **COPY OF THE OBJECTION TO EXHIBIT P1 APPLICATION DTD. 10/03/2004.**

/TRUE COPY/

P.A.TO JUDGE

KSS

PIUS C. KURIAKOSE,J.

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W.P.(C) No.12848 of 2004

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Dated: 29th November, 2007

JUDGMENT

Under challenge in this Writ Petition under Article 227 of the Constitution initiated by the judgment-debtors before the execution court is the order dated 11.3.2004 passed by the execution court directing sale of 62 cents of property belonging to the petitioners and situated to the west of the public road. The claim in the E.P. was for a total sum of Rs.1,59,744/-. One of the grounds raised is that the execution court should not have ordered sale on 11.3.2004 and should have permitted the petitioners to discharge the decree debt in monthly instalments. Noticing the above ground, while admitting this Writ Petition, the court became inclined to grant stay only by imposing condition that a sum of Rs.20,000/- shall be paid on or before 1.6.2004. Thereafter on 19.10.2004, the order of stay was extended imposing a further condition that a sum of Rs.20,000/- shall be paid within three weeks from 19.10.2004. The order of stay was further extended on 17.11.2004 imposing condition that a further sum of Rs.10,000/- should be paid within one month from 17.11.2004. It is not clear whether these conditions have been complied with and the order of stay is actually in force. Whatever that

be, since there is no contest to the prayers in this Writ Petition, the Writ Petition will stand disposed of directing that the order of stay will continue on condition that the petitioners pay at the rate of Rs.10,000/- towards the decree debt every month commencing from 1.1.2008 till such time as the entire decree debt is wiped off. In the event of any default, the petitioners will forfeit the above instalment facility. Once the petitioners feel that the entire decree debt has been wiped off, it is open to them to file an application for recording full satisfaction. If such an application is received, the execution court will dispose of that application with notice to both sides and in accordance with law.

srd **PIUS C.KURIAKOSE, JUDGE**